

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF DELAWARE

In re: § **Chapter 11**
FRANCHISE GROUP, INC., et al.,¹ § **Case No. 24-12480-JTD**
Debtors. § **(Jointly Administered)**

**THE BRIDGE 33 LANDLORDS' LIMITED OBJECTION
AND RESERVATION OF RIGHTS TO CURE AMOUNT
AND ASSUMPTION AND ASSIGNMENT OF LEASES**

B33 Ashley Furniture Plaza II LLC, B33 Metro Crossing II LLC, B33 Wrangleboro II LLC and B33 Yuma Palms III LLC (“**Bridge33 Landlords**”), by and through their counsel, Singer & Levick, PC, files their *Limited Objection And Reservation of Rights to Cure Amount and Assumption and Assignment of Leases* (“**Limited Objection**”) and, in support of same, would respectfully show as follows:

¹ The Debtors in these Chapter 11 Cases, along with the last four digits of their U.S. federal tax identification numbers, to the extent applicable, are Franchise Group, Inc. (1876), Freedom VCM Holdings, LLC (1225), Freedom VCM Interco Holdings, Inc. (2436), Freedom Receivables II, LLC (4066), Freedom VCM Receivables, Inc. (0028), Freedom VCM Interco, Inc. (3661), Freedom VCM, Inc. (3091), Franchise Group New Holdco, LLC (0444), American Freight FFO, LLC (5743), Franchise Group Acquisition TM, LLC (3068), Franchise Group Intermediate Holdco, LLC (1587), Franchise Group Intermediate L, LLC (9486), Franchise Group Newco Intermediate AF, LLC (8288), American Freight Group, LLC (2066), American Freight Holdings, LLC (8271), American Freight, LLC (5940), American Freight Management Company, LLC (1215), Franchise Group Intermediate S, LLC (5408), Franchise Group Newco S, LLC (1814), American Freight Franchising, LLC (1353), Home & Appliance Outlet, LLC (n/a), American Freight Outlet Stores, LLC (9573), American Freight Franchisor, LLC (2123), Franchise Group Intermediate B, LLC (7836), Buddy's Newco, LLC (5404), Buddy's Franchising and Licensing LLC (9968), Franchise Group Intermediate V, LLC (5958), Franchise Group Newco V, LLC (9746), Franchise Group Intermediate BHF, LLC (8260); Franchise Group Newco BHF, LLC (4123); Valor Acquisition, LLC (3490), Vitamin Shoppe Industries LLC (3785), Vitamin Shoppe Global, LLC (1168), Vitamin Shoppe Mariner, LLC (6298), Vitamin Shoppe Procurement Services, LLC (8021), Vitamin Shoppe Franchising, LLC (8271), Vitamin Shoppe Florida, LLC (6590), Betancourt Sports Nutrition, LLC (0470), Franchise Group Intermediate PSP, LLC (5965), Franchise Group Newco PSP, LLC (2323), PSP Midco, LLC (6507), Pet Supplies “Plus”, LLC (5852), PSP Group, LLC (5944), PSP Service Newco, LLC (6414), WNW Franchising, LLC (9398), WNW Stores, LLC (n/a), PSP Stores, LLC (9049), PSP Franchising, LLC (4978), PSP Subco, LLC (6489), PSP Distribution, LLC (5242), Franchise Group Intermediate SL, LLC (2695), Franchise Group Newco SL, LLC (7697), and Educate, Inc. (5722). The Debtors' headquarters is located at 109 Innovation Court, Suite J, Delaware, Ohio 43015.

1. The Bridge33 Landlords are owners of shopping centers and the Debtors are parties to certain non-residential real property leases with the Bridge33 Landlords. The locations at issue concerning this matter are the Ashley Furniture Plaza, North Olmsted, OH (“**Ashley Lease**”), Metro Crossing, Council Bluffs, IA (“**Metro Lease**”), Wrangleboro Consumer Square, Hamilton, NJ (“**Wrangleboro Lease**”) and Yuma Palms Regional Center, Yuma, AZ (“**Yuma Palms Lease**”) (collectively, the “**Leases**”). The locations covered by these Leases are shopping centers within the meaning of Section 365(b)(3) of the BANKRUPTCY CODE. The Debtors operate their brand, the Vitamin Shoppe, in all of these locations.

BACKGROUND

2. On November 3, 2024 (“**Petition Date**”), the Debtors filed voluntary petitions for relief under Chapter 11 of Title 11 of the UNITED STATES CODE (“**Bankruptcy Code**”) with the United States Bankruptcy Court for the District of Delaware (“**Court**”), commencing the above-captioned case (“**Bankruptcy Case**”).

3. Since the Petition Date, the Debtors have continued in the operation and management of their businesses as Debtors-in-Possession under Sections 1107 and 1108 of the Bankruptcy Code.

4. On December 16, 2024, the Court entered the (Revised) *Order (I) (A) Approving Bidding Procedures for the Sale of all or Substantially All of the Debtors' Assets, (B) Scheduling an Auction and a Sale Hearing and Approving the Form and Manner of Notice Thereof, (C) Approving Assumption and Assignment Procedures, and (D) Granting Related Relief* (“**Revised Order**”) (Dkt.444).

5. On December 20, 2024, the Debtors filed their *Notice of Possible Assumption and Assignment and Cure Costs with Respect to Executory Contracts and Unexpired Leases* (“**Cure**

Notice”) (Dkt.487). The Leases were listed as potential assumed contracts with cure amounts for all four Leases of \$0.00 (“**Cure Amount**”) (Dkt.487-1:P.14:#121800808, 121800811, 121800812 and 121800813).

6. The Bridge33 Landlords file this Limited Objection to object to the Cure Amount and to reserve and preserve their rights in the event that the Debtors attempt to assume and assign the Leases to a buyer. The Correct Cure Amounts listed on the attached **Exhibit A** are correct as of December 23, 2024; however, those numbers may change in the event that any post-petition obligations are not paid and if any additional amounts accrue, which remain unpaid.

7. The Bridge33 Landlords object to the entry of any Order that sets the Cure Amounts listed as the final cure amount for their Leases and submit that the correct cure amounts used in any final Order authorizing the assumption of the Leases should include any additional unpaid amounts which accrue and remain unpaid prior to the date of assumption, including any post-petition charges which remain unpaid and any other charges which have accrued but are not yet payable such as year-end reconciliation and attorneys’ fees.

8. Additionally, there may also be unknown and/or unasserted claims that may exist presently or may exist in the future against the Bridge33 Landlords for which the Debtors may be obligated to indemnify and defend. The Bridge33 Landlords reserve their rights under the Leases and all applicable law to assert a claim for any and all amounts which may be due and owing for any currently unknown and/or unasserted claim against the Bridge33 Landlords that may presently exist or may exist in the future for which the Debtors may be obligated to indemnify and defend the Bridge33 Landlords. Any assumption of the Leases must include these obligations.

RESERVATION OF RIGHTS

9. The Bridge33 Landlords reserve their rights to supplement this Limited Objection prior to any final determination by the Court regarding assumption and assignment of the Leases, including the amount and payment required for purposes of cure under Section 365 of the Bankruptcy Code.

10. The Bridge33 Landlords further reserve the right to object to any other relief sought by the Debtors in connection with any proposed assignment including, without limitation, any proposed showing of adequate assurance of future performance for any purchaser if assigned.

11. This Reservation of Rights is not intended to be, nor should be construed as, a waiver by the Bridge33 Landlords of any of their rights under the Leases, the Bankruptcy Code, or applicable law. The Bridge33 Landlords file this Limited Objection and Reservation of Rights to reserve and preserve any and all rights of the Bridge33 Landlords in connection with any proposed assumption and assignment of their Leases and adequate assurance including, without limitation, issues regarding the financial condition and ability of any proposed assignee to meet the heightened requirements for assumption and assignment of contracts and leases as set forth in Section 365 of the Bankruptcy Code.

PRAYER

WHEREFORE, PREMISES CONSIDERED, the Bridge33 Landlords request that the Court enter an Order:

- (a) establishing the actual cure amount owed to the Leases;
- (b) requiring Debtors to comply with all obligations under the Leases pursuant to 11 U.S.C. § 365(d)(3) pending the actual assumption of the Leases;

- (c) requiring Debtors to cure any additional defaults that may occur under the Leases between the date of this Limited Objection and the effective date of any assumption by the Reorganized Debtors, or an assumption and assignment to a purchaser; and
- (d) granting such other and further relief as the Court deems just and proper.

DATED: January 3, 2025

Respectfully submitted,

SINGER & LEVICK, P.C.

By: /s/ Michelle E. Shriro
Michelle E. Shriro
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ATTORNEYS FOR:
B33 ASHLEY FURNITURE PLAZA II LLC,
B33 METRO CROSSING II LLC,
B33 WRANGLEBORO II LLC AND
B33 YUMA PALMS III LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of this document will be electronically mailed to the parties that are registered or otherwise entitled to receive electronic notices in this case pursuant to the Electronic Filing Procedures in this District, which includes the parties listed below, on this 3rd day of January, 2025.

<p><u>Debtors:</u> Franchise Group, Inc., <i>et al.</i> 109 Innovation Court, Suite J Delaware, Ohio 43015 VIA ECF Noticing through its attorneys</p>	<p><u>Counsel to the Debtors:</u> Debra M. Sinclair dsinclair@willkie.com Matthew A. Feldman mfeldman@willkie.com Betsy L. Feldman bfeldman@willkie.com Willkie Farr & Gallagher LLP 787 Seventh Avenue New York, NY 10019 VIA ECF Noticing and/or Email</p>
<p><u>US Trustee:</u> Timothy J. Fox timothy.fox@usdoj.gov Office of the United States Trustee for the District of Delaware J. Caleb Boggs Federal Building 844 King Street, Room 2207 Wilmington, DE 19801 VIA ECF Noticing and/or Email</p>	<p>Edmon L. Morton emorton@ycst.com Matthew B. Lunn mlunn@ycst.com Allison S. Mielke amielke@ycst.com Young Conaway Stargatt and Taylor, LLP 1000 North King Street Wilmington, DE, 19801 VIA ECF Noticing and/or Email</p>

<p><u>Counsel to the Committee:</u></p> <p>Bradford J. Sandler bsandler@pszjlaw.com</p> <p>Robert J. Feinstein rfeinstein@pszjlaw.com</p> <p>Paul J. Labov plabov@pszjlaw.com</p> <p>Theodore S. Heckel theckel@pszjlaw.com</p> <p>Pachulski Stang Ziehl & Jones LLP 780 Third Avenue, 34th Floor New York NY 10017</p> <p>VIA ECF Noticing and/or Email</p>	<p><u>Counsel to the DIP Lenders and Ad Hoc Group of First Lien Secured Lenders:</u></p> <p>Jayme Goldstein jaymegoldstein@paulhastings.com</p> <p>Jeremy Evans jeremyevans@paulhastings.com</p> <p>Isaac Sasson isaacsasson@paulhastings.com</p> <p>Paul Hastings LLP 200 Park Avenue New York, NY 10166</p> <p>VIA ECF Noticing and/or Email</p> <p>Adam G. Landis landis@lrclaw.com</p> <p>Matthew McGuire mcguire@lrclaw.com</p> <p>Landis Rath & Cobb LLP 919 N. Market Street, Suite 1800 Wilmington, DE 19317</p> <p>VIA ECF Noticing and/or Email</p>
<p><u>Counsel to the ABL Secured Parties:</u></p> <p>Jennifer Ezring Jennifer.Ezring@lw.com</p> <p>James Ktsanes James.Ktsanes@lw.com</p> <p>Andrew Sorkin andrew.sorkin@lw.com</p> <p>Latham & Watkins LLP 1271 Avenue of the Americas New York, NY 10020</p> <p>VIA ECF Noticing and/or Email</p>	<p><u>Counsel to the Second Lien Secured Parties and HoldCo Lenders:</u></p> <p>Thomas Lauria tlauria@whitecase.com</p> <p>White & Case LLP 200 S Biscayne Blvd Miami, FL 33131</p> <p>VIA ECF Noticing and/or Email</p> <p>Bojan Guzina bojan.guzina@whitecase.com</p> <p>White & Case LLP 111 S. Wacker Dr., Suite 5100 Chicago, IL 60606</p> <p>VIA ECF Noticing and/or Email</p>

/s/ Michelle E. Shriro
Michelle E. Shriro

Exhibit A

BRIDGE33 LEASES – Franchise Group, Inc.

Landlord	Location	Proposed Cure Amount	Correct Cure Amount
B33 Ashley Furniture Plaza II LLC	Ashley Furniture Plaza 26520 Lorain Road North Olmstead, OH	\$0.00	\$0.00
B33 Metro Crossing II LLC	Metro Crossing 3816 Metro Drive, Suite 100 Council Bluffs, IA 51501	\$0.00	\$1,116.22
B33 Wrangleboro II LLC	Wrangleboro Consumer Square 2274 Wrangleboro Road Mays Landing, NJ	\$0.00	\$0.00
B33 Yuma Palms III LLC	Yuma Palms Regional Center 1305 S. Yuma Palms Parkway Yuma, AZ	\$0.00	\$0.00